

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 2840 - HB 3367

March 7, 2012

SUMMARY OF BILL: Requires a person convicted of murder in the first or second degree; aggravated or especially aggravated kidnapping; especially aggravated robbery; rape or aggravated rape; rape or aggravated rape of a child; sexual exploitation of a minor involving more than 100 images; aggravated sexual exploitation of a minor involving more than 25 images; especially aggravated sexual exploitation of a minor; aggravated sexual battery; aggravated arson; or aggravated child abuse, on or after July 1, 2012, to serve 100 percent of the sentence imposed by the court undiminished by any sentence reduction credits the person may earn and retain.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures - \$18,536,500/Incarceration*

Assumptions:

- Currently, the punishment for the Class A felony offense of murder in the first degree is death, imprisonment for life without the possibility of parole, or imprisonment for life. No additional incarceration costs to the Department of Correction (DOC) for these offenders because the proposed bill will not add any additional time for these offenses.
- According to DOC, there has been an average of 133 admissions for the Class A felony of murder in the second degree in each of the past 10 years.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will result in 16 additional offenders in the tenth year for a total of 149 (133 + 16).
- According to DOC, the average length of sentence for a person admitted to the Department in FY10-11 for murder in the second degree is 23.77 years. Eighty-five percent of the average sentence is 20.20 years (23.77 years x 85%). Requiring offenders to serve 100 percent of the sentence imposed will result in these offenders serving an additional 3.57 years (23.77 years – 20.20 years).
- According to the Department, 46.4 percent of offenders will re-offend within three years of their release. A recidivism discount of 46.4 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill. It is assumed that the re-offender would have

committed the subsequent offense at the same felony level as under current law (149 offenders x 46.4% recidivism discount = 69 offenders).

- According to DOC, the average operating cost per offender per day for calendar year 2012 is \$61.36. The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 80 offenders (149 – 69) serving an additional 3.57 years (1,303.94 days). The additional operating cost for 3.57 years is \$80,009.76 (\$61.36 x 1,303.94 days). The total additional operating cost for 80 offenders is \$6,400,780.80 (\$80,009.76 x 80 offenders).
- According to DOC, there has been an average of 29 admissions for the Class B felony of aggravated kidnapping in each of the past 10 years. Population growth will result in three additional offenders in the tenth year for a total of 32 (29 + 3).
- According to DOC, the average length of sentence for a person admitted to the Department in FY10-11 for aggravated kidnapping was 15.38 years. Eighty-five percent of the average sentence is 13.07 years (15.38 years x 85%). Requiring offenders to serve 100 percent of the sentence imposed will result in these offenders serving an additional 2.31 years (15.38 years – 13.07 years).
- A recidivism discount of 39.6 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under current law (32 offenders x 39.6% recidivism discount = 13 offenders).
- The maximum cost in the tenth year is based on 19 offenders (32 – 13) serving an additional 2.31 years (843.73 days). The additional operating cost for 2.31 years (843.73 days) is \$51,771.27 (\$61.36 x 843.73 days). The total additional operating cost for 19 offenders is \$983,654.13 (\$51,771.27 x 19 offenders).
- According to DOC, there has been an average of 22 admissions for the Class A felony of especially aggravated kidnapping in each of the past 10 years. Population growth will result in three additional offenders in the tenth year for a total of 25 (22 + 3).
- According to DOC, the average length of sentence for a person admitted to the Department in FY10-11 for especially aggravated kidnapping was 26.27 years. Eighty-five percent of the average sentence is 22.33 years (26.27 years x 85%). Requiring offenders to serve 100 percent of the average sentence will result in these offenders serving an additional 3.94 years (26.27 years – 22.33 years).
- A recidivism discount of 46.4 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under current law (25 offenders x 46.4% recidivism discount = 12 offenders).
- The maximum cost in the tenth year is based on 13 offenders (25 – 12) serving an additional 3.94 years (1,439.09 days). The additional operating cost for 3.94 years (1,439.09 days) is \$88,302.56 (\$61.36 x 1,439.09 days). The total additional operating cost for 13 offenders is \$1,147,933.28 (\$88,302.56 x 13 offenders).
- According to DOC, there has been an average of 36 admissions for the Class A felony offense of especially aggravated robbery in each of the past 10 years. Population growth will result in four additional offenders in the tenth year for a total of 40 (36 + 4).

- According to DOC, the average length of sentence for a person admitted to the Department in FY10-11 for especially aggravated robbery is 20.77 years. Eighty-five percent of the average sentence is 17.65 years (20.77 years x 85%). Requiring offenders to serve 100 percent of the sentence imposed will result in these offenders serving an additional 3.12 years (20.77 years – 17.65 years).
- A recidivism discount of 46.4 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under current law (40 offenders x 46.4% recidivism discount = 19 offenders).
- The maximum cost in the tenth year is based on 21 offenders (40 -19) serving an additional 3.12 years (1,139.58 days). The additional operating cost for 3.12 years (1,139.58 days) is \$69,924.63 (\$61.36 x 1, 139.58 days). The total additional operating cost for 21 offenders is \$1,468,417.23 (\$69,924.63 x 21 offenders).
- According to DOC, there has been an average of 25 admissions for the Class A felony offense of aggravated rape in each of the past 10 years. Population growth will result in three additional offenders in the tenth year for a total of 28 (25 + 3).
- According to DOC, the average length of sentence for a person a person admitted to the Department in FY10-11 for aggravated rape is 20.88 years. Eighty-five percent of the average sentence is 17.75 years (20.88 years x 85%). Requiring offenders to serve 100 percent of the sentence imposed will result in these offenders serving an additional 3.13 years (20.88 years – 17.75 years).
- A recidivism discount of 46.4 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under current law (28 offenders x 46.4% recidivism discount = 13 offenders).
- The maximum cost in the tenth year is based on 15 offenders (28 – 13) serving an additional 3.13 years (1,143.23 days). The additional operating cost for 3.13 years (1,143.23 days) is \$70,148.59 (\$61.36 x 1,143.23 days). The total additional operating cost for 15 offenders is \$1,052,228.85 (\$70,148.59 x 15 offenders).
- According to DOC, there has been an average of 57 admissions for the Class B felony offense of rape. Population growth will result in seven additional offenders in the tenth year for a total of 64 (57 + 7).
- According to DOC, the average length of sentence for a person admitted to the Department in FY10-11 for rape is 9.31 years. Eighty-five percent of the average sentence is 7.91 years (9.31 years x 85%). Requiring offenders to serve 100 percent of the sentence imposed will result in these offenders serving an additional 1.40 years (9.31 years – 7.91 years).
- According to the Department, 25.5 percent of offenders will re-offend within one year of their release. A recidivism discount of 25.5 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under current law (64 offenders x 25.5% recidivism discount = 16 offenders).

- The maximum cost in the tenth year is based on 48 offenders (64 - 16 to account for recidivism) serving an additional 1.40 years (511.35 days). The additional operating cost for 1.40 years (511.35 days) is \$31,376.44 (\$61.36 x 511.35 days). The total additional operating cost for 48 offenders is \$1,506,069.12 (\$31,376.44 x 48 offenders).
- According to DOC, there has been an average of 91 admissions for the Class B felony of aggravated sexual battery in each of the past 10 years. Population growth will result in 11 additional offenders in the tenth year for a total of 102 (91 + 11).
- According to DOC, the average length of sentence for a person admitted to the Department in FY10-11 for the Class B felony of aggravated sexual battery is 10.07 years. Eighty-five percent of the average sentence is 8.56 years (10.07 years x 85%). Requiring offenders to serve 100 percent of the sentence imposed will result in these offenders serving an additional 1.51 years (10.07 years – 8.56 years).
- A recidivism discount of 25.5 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under current law (102 offenders x 25.5% recidivism discount = 26 offenders).
- The maximum cost in the tenth year is based on 76 (102 – 26) offenders. The additional operating cost for 1.51 years (551.53 days) is \$33,841.88 (\$61.36 x 551.53 days). The total additional operating cost for 76 offenders is \$2,571,982.88 (\$33,841.88 x 76 offenders).
- According to DOC, there has been an average of 58 admissions for the Class A felony of rape of a child in each of the past 10 years. Population growth will result in seven additional offenders in the tenth year for a total of 65 (58 + 7).
- Pursuant to Chapter 306 of the Public Acts of 2011, effective January 1, 2012, a person convicted of a first or subsequent offense of rape of a child shall be punished by a minimum sentence of 25 years. Eighty-five percent of the average sentence is 21.25 years (25 years x 85%). It is assumed that the average length of sentence will be 25 years. Requiring offenders to serve 100 percent of the sentence imposed will result in these offenders serving an additional 3.75 years (25 years – 21.25 years).
- A recidivism discount of 46.4 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under current law (65 offenders x 46.4% recidivism discount = 30 offenders).
- The maximum cost in the tenth year is based on 35 (65 - 30) offenders. The additional operating cost for 3.75 years (1,369.69 days) is \$84,044.18 (\$61.36 x 1,369.69 days). The total additional operating cost for 35 offenders is \$2,941,546.30 (\$84,044.18 x 35 offenders).
- According to DOC, there has been an average of four admissions for the Class A felony of aggravated arson in each of the past 10 years. No significant incarceration cost increase will occur due to population growth in this period.
- According to DOC, the average length of sentence for a person admitted to the Department in FY10-11 for aggravated arson was 13 years. Eighty-five percent of the average sentence is 11.05 years (13 years x 85%). Requiring offenders to serve 100

percent of the sentence imposed will result in these offenders serving an additional 1.95 years (13 years – 11.05 years).

- A recidivism discount of 25.5 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under current law (4 offenders x 25.5% recidivism discount = 1 offender).
- The maximum cost in the tenth year is based on three (4-1) offenders. The additional operating cost for 1.95 years (712.24 days) is \$43,703.05 (\$61.36 x 712.24 days). The total additional operating cost for three offenders is \$131,109.15 (\$43,703.05 x 3 offenders).
- According to DOC, there has been an average of four admissions for the Class B felony of aggravated child abuse in each of the past 10 years. No significant incarceration cost increase will occur due to population growth in this period.
- According to DOC, the average length of sentence for a person admitted to the Department in FY10-11 for aggravated child abuse is 10.89 years. Eighty-five percent of the average sentence is 9.26 years (10.89 years x 85%). Requiring offenders to serve 100 percent of the sentence imposed will result in these offenders serving an additional 1.63 years (10.89 years – 9.26 years).
- A recidivism discount of 25.5 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under current law (4 offenders x 25.5% recidivism discount = 1 offender).
- The maximum cost in the tenth year is based on three (4 – 1) offenders. The additional operating cost for 1.63 years (595.36 days) is \$36,531.29 (\$61.36 x 595.36 days). The total additional operating cost for three offenders is \$109,593.87 (\$36,531.29 x 3 offenders).
- According to DOC, there has been 0.20 admissions for the Class A felony of aggravated rape of a child in each of the past 10 years. According to DOC statistics, there were no admissions in FY10-11 for this offense. The average length of sentence for a person admitted to the Department in FY09-10 was 60 years. Eighty-five percent of the average sentence is 51 years (60 years x 85%). Estimate assumes the proposed bill will not add any additional time for these offenses.
- According to DOC, there has been an average of six admissions for the Class B felony offense of sexual exploitation of a minor involving more than 100 images in each of the past three years. Population growth will result in one additional admission in the tenth year for a total of 7 (6 + 1).
- According to DOC, the average length of sentence for a person admitted to the Department in FY10-11 for sexual exploitation of a minor involving more than 100 images is 8.15 years. Eighty-five percent of the average sentence is 6.93 years (8.15 years x 85%). Requiring offenders to serve 100 percent of the sentence imposed will result in these offenders serving an additional 1.22 years (8.15 years – 6.93 years).
- A recidivism discount of 25.5 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill. It is assumed that the re-offender would have committed the


subsequent offense at the same felony level as under current law (7 offenders x 25.5% recidivism discount = 2 offenders).

- The maximum cost in the tenth year is based on five (7 – 2) offenders. The additional operating cost for 1.22 years (445.61 days) is \$27,342.63 (\$61.36 x 445.61 days). The total additional operating cost for five offenders is \$136,713.15 (\$27,342.63 x 5 offenders).
- According to DOC, there has been an average of two admissions for the Class B felony offense of aggravated sexual exploitation of a minor involving more than 25 images in each of the past three years. No significant incarceration cost increase will occur due to population growth in this period.
- According to DOC, the average length of sentence for a person admitted to the Department in FY10-11 for aggravated sexual exploitation of a minor involving more than 25 images is 9.75 years. Eighty-five percent of the average sentence is 8.29 years (9.75 years x 85%). Requiring offenders to serve 100 percent of the sentence imposed will result in these offenders serving an additional 1.46 years (9.75 years – 8.29 years).
- A recidivism discount of 25.5 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under current law (2 offenders x 25.5% recidivism discount = 1 offender).
- The maximum cost in the tenth year is based on one (2 – 1) offender. The additional operating cost for 1.46 years (533.27 days) is \$32,721.45 (\$61.36 x 533.27 days).
- According to DOC, there has been an average of three admissions for the Class B felony offense of especially aggravated sexual exploitation of a minor in each of the past 10 years. No significant incarceration cost increase will occur due to population growth in this period.
- According to DOC, the average length of sentence for a person admitted to the Department in FY10-11 is eight years. Eighty-five percent of the average sentence is 6.80 years (8 years x 85%). Requiring offenders to serve 100 percent of the sentence imposed will result in these offenders serving an additional 1.20 years (8 years – 6.80 years).
- A recidivism discount of 25.5 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under current law (3 offenders x 25.5% recidivism discount = 1 offender).
- The maximum cost in the tenth year is based on two (3 – 1) offenders. The additional operating cost of 1.20 years (438.30 days) is \$26,894.09 (\$61.36 x 438.30 days). The total additional operating cost for two offenders is \$53,788.18 (\$26,894.09 x 2 offenders).
- The total additional operating cost is \$18,536,538.39 (\$6,400,780.80 + \$983,654.13 + \$1,147,933.28 + \$1,468,417.23 + \$1,052,228.85 + \$1,506,069.12 + \$2,571,982.88 + \$2,941,546.30 + \$131,109.15 + \$109,593.87 + \$136,713.15 + \$32,721.45 + \$53,788.18).

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "Lucian D. Geise". The signature is fluid and cursive, with the first name "Lucian" and last name "Geise" clearly distinguishable.

Lucian D. Geise, Executive Director

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